

REMARKS/ARGUMENTS

The Office Action mailed August 22, 2003 has been carefully reviewed. Reconsideration of this application, as amended and in view of the enclosed Declarations and the following remarks, is respectfully requested. The claims presented for examination are: claims 1-18.

Restriction Requirement

In numbered paragraph 1 of the Office Action mailed August 22, 2003, it was noted that claims 1-9 stand withdrawn for further consideration.

35 USC 112 Rejection

In numbered paragraph 2 of the Office Action mailed August 22, 2003, claims 11, 14, and 17 were rejected under 35 USC 112, second paragraph, as allegedly being indefinite. Applicants have amended claims 11, 14, and 17 directed to each of the points raised in the Office Action mailed August 22, 2003. Applicants submit that amended claims 11, 14, and 17 comply with the requirements of 35 USC 112, second paragraph.

35 USC 103 Rejection

In numbered paragraph 5 of the Office Action mailed August 22, 2003, claims 10-18 were rejected under 35 USC 103(a) as allegedly being unpatentable over the Soane et al Reference, International Patent Application No. WO 01/06054 by Avant-Garb, LLC. The Soane et al Reference, International Patent Application No. WO 01/06054, was published January 25, 2001, from an application filed July 19, 2000. The filing date of the application from which the Soane et al Reference matured is July 19, 2000.

Applicants respectfully traverse the rejection of claims 10-18 under 35 USC 103(a) as being unpatentable over the Soane et al Reference. Applicants are

attaching two Declarations under 37 CFR §1.131 to Overcome Cited Reference. One of the Declarations is a "DECLARATION UNDER 37 CFR §1.131, Declaration by Lawrence W. Hrubesh, John F. Poco, and Paul R. Coronado to Overcome Cited Reference." The other Declaration is a "Declaration by Eddie E. Scott of Prior Invention by Lawrence W. Hrubesh, John F. Poco, and Paul R. Coronado to Overcome Cited Reference."

Applicants made the invention described and claimed in the subject patent application (The Invention) in this country prior to July 19, 2000, having made written descriptions, having made tests, and having disclosed the invention to others; all of the foregoing having been done in this country prior to July 19, 2000.

Applicants continuously worked on testing, developing, and patenting The Invention during the period from the time when Applicants made the first written description of The Invention and disclosed The Invention to others until October 25, 2001 when the subject application was filed (hereinafter "The Time Period").

Applicants conceived and reduced The Invention to practice in this country prior to July 19, 2000.

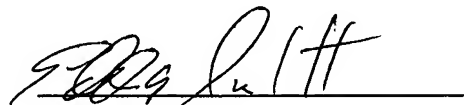
The attached Declarations include an ATTACHMENT A, which is photostatic copy of a "RECORD OF INVENTION" which in the Conception of the Invention Section XI, contains an entry for the "Conception Date" and an entry for "First Written Description," in the Reduction to Practice of the Invention Section XII, contains an entry for the "Date of Operation and Testing," and in Section XIV contains blanks wherein signatures and dates of signatures appear; the dates on the photostatic copy of ATTACHMENT A have been blacked out, however, dates showing that Applicants made The Invention prior to July 19, 2000 are dates prior to July 19, 2000; that Applicants conceived The

Invention in this country are dates prior to July 19, 2000; that Applicants reduced  
The Invention to practice in this country are dates prior to July 19, 2000, and  
dates showing that The Invention was continuously worked on during The Time  
Period are dates during The Time Period.

SUMMARY

The undersigned respectfully submits that, in view of the foregoing amendments, the enclosed Declarations, and the foregoing remarks, the rejections of the claims raised in the Office Action dated August 22, 2003 have been fully addressed and overcome, and the present application is believed to be in condition for allowance. It is respectfully requested that this application be reconsidered, that the claims be allowed, and that this case be passed to issue. If it is believed that a telephone conversation would expedite the prosecution of the present application, or clarify matters with regard to its allowance, the Examiner is invited to call the undersigned attorney at (925) 424-6897.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eddie E. Scott", written over a horizontal line.

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Dated: November 3, 2003